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#### REMARKS

The present Amendment is submitted in response to the non-final Office Action mailed on January 23, 2009, which set a three-month period for response.

In the non-final Office Action, claim 61 is rejected under 35 USC §112, second paragraph as indefinite. In response, applicant has amended claim 61 as shown in the above Listing of Claims. As amended, claim 61 is believed to overcome the §112, second paragraph rejection, and applicant respectfully requests withdrawal of same.

After amendment hereby, claims 54, 56 and 58-61 are pending, where claims 54 and 61 are independent claims.

Claims 54, 56, 58-61 are also rejected under 35 USC §103(a) as unpatentable over US Patent No. 5,609,350 to Chumley in view of US Patent No. 6,636,783 to Young, and still further in view of US Patent No. 6,092, 970 to Hahn.

To support the rejection, the Examiner asserts that Chumley discloses a movable vehicle locator swivel plate (E, 59, 60) mounted on an upper side of and adjacent to the rear end of a base for supporting two wheels of a second vehicle being towed, the movable vehicle locator swivel plate (MLSP) pivoting around a vertical axis (61) as a point of rotation for said vehicle being towed as the towing vehicle moves through a radius of a turn.

The Examiner further asserts that Chumley does not teach that the MLSP is located to the rear of the axis of rotation, that Chumley teaches adjusting means, but not means for adjusting said MLSP being along a longitudinal axis of said base to adjust

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loads on said hitch comprising a downwardly extending pivot bolt from said swivel plate engaging a hole in a series of holes in said base arranged along said longitudinal axis of said base whereby said swivel plate is movable between said holes for adjusting a load on said hitch, as claimed.

The Examiner then states that Young teaches the MLSP (70) located to the rear of the axis of rotation, and means for adjusting the MLSP along a longitudinal axis of the base to adjust load, as claimed.

The Examiner then further states that Hahn teaches that it is known for having longitudinal adjusting means comprising a pair of longitudinally spaced openings with a downwardly extending a pivot bolt (60) for holding vehicle wheels in a desired location.

The Examiner concludes that "it would have been obvious to one of ordinary skill in the art at the time the invention was made "to have tried" modifying Chumley by Young and Hahn "to have tried" having the movable vehicle locator swivel plate longitudinally adjustable and located to the rear of said axis of rotation in order to achieve the predictable result of **better towing (and inherently balancing) of a second vehicle and have more room on the forward vehicle tow rack**, and to have longitudinal adjusting means comprise a plurality of longitudinal spaced openings with a downwardly extending pivot bolt for achieving the predictable result of **holding vehicle wheels at a desired location.**"

Applicant respectfully disagrees and asserts that it would not have been "obvious to try" modifying Chumley by Young and Hahn because there is no suggestion that the

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combination would have a reasonable likelihood of success of realizing an invention as set forth in claims 54, 56, 58-61 for at least the following reasons.

As shown in the Listing of Claims, applicant's independent claim 54 sets forth a device to tow at least two vehicles, and independent claim 61 sets forth a method for towing two vehicles.

Chumley, as distinguished, teaches apparatus for securing an automobile to a motor home and for carrying articles between a motor home and an automobile for towing behind the motor home. A towing connection E is carried by a connecting frame B adjacent a rear end of a carrier platform member for securement of the automobile for towing, and includes a substantially horizontal transverse pivotal connection for securement to the automobile substantially fixing the automobile against horizontal movement in respect to the connecting frame but permitting pivotal movement in a vertical plane during towing.

Applicant respectfully disagrees that Chumley's towing connection E, including inclined ramp 59, is equivalent to applicant's claimed MLSP mounted on an upper side of and adjacent the rear end of said base to the rear of said axis of rotation for supporting two wheels of a second vehicle being towed, as claimed.

Chumley's FIGS. 11 and 12 illustrate towing connection E including a slightly lowered extension of the frame B illustrated at 58 together with an inclined ramp 59. Chumley describes the arrangement as permitting the front wheels of the vehicle to be received thereon for proper alignment by a standard transverse pivot shown at 60, and

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that a central vertical pivot is provided at 61 to permit limited pivotal movement in a horizontal plane of the platform 62 including inclined ramp 59.

When viewing Figs. 11 and 12, it is apparent that inclined ramp 59 is just that, and not an MLSP, or a portion of same, as claimed. While central vertical pivot 61 may permit adjustment of towing platform 62 to receive front wheels of a vehicle, pivot 61 is not a MLSP movable for adjusting a load, as claimed.

Young's wheel supporting cradle 70 comprises the wheel supporting boom 71 extending rearwardly having a cross bar 72 which at each end an arm 73, 74 is connected by a conventional type housing 77, 78, generally perpendicular thereto. Attached to each arm 73, 74 is a rear support 75, 76 extending inwardly and forming an L-shaped support for each respective wheel W.

Young's supporting cradle 70 is not a MLSP, as claimed. That is, Young's supporting cradle 70 is not a MLSP mounted on an upper side of and adjacent the rear end of a base. The horizontal adjustability of Young's supporting cradle does not come from a downwardly extending pivot. Young at col. 7, line 24, refers to FIGS. 4-9 and 11 stating that the fly boom 56 is telescopically extendable from the base boom 55 and wheel supporting boom 71 is telescopically extendable from the fly boom 56 to support the wheel supporting cradle 70. Both are driven by hydraulic cylinders.

The skilled artisan would not have found it likely or "obvious to try" to modify Chumley with Young's supporting cradle 70, because there is no likelihood that Young's supporting cradle 70 would operate together with Chumley's towing connecting E,

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including inclining ramp 59 and towing platform 62, or that the combination would realize an MLSP, as claimed.

Moreover, while the Examiner asserts that Young's supporting cradle 70 provides more room on the forward vehicle tow rack, applicant does not disagree but respectfully asserts that a significant benefit of his MLSP as claimed is to adjust loads on the hitch, so that it is unlikely that the skilled artisan in view of Chumley would look to Young's supporting cradle to realize better load adjustment, as claimed.

Hahn teaches a manually positioned wheel chocking system, which has little to do with the subject matter of the invention as claimed, particularly adjusting a load on a hitch or tongue hitch attachment on a tandem tow trailer.

Hahn's pin 60 is meant to manually secure Hahn's dolly when in chocking position. Hahn's pin 60 is not equivalent to means for adjusting (that is, the pin) a MLSP along a longitudinal axis of a base to adjust load on a (tandem tow trailer) hitch, the MLSP comprising said downwardly extending pivot bolt from said swivel plate for engaging a hole in a series of holes arranged along said longitudinal axis of said base in order that swivel plate is movable between said holes for adjusting a load on said hitch or tongue hitch attachment, as claimed.

None of the references disclose any hint or suggestion for their combination, or a suggestion that the elements they disclose could be modified, so that it cannot be considered as obvious to combine their teachings. For example, as stated for example in *ATD Corp. The Lydale, Inc.* 48 USPQ 2d 1321, 1329 (Fed. Cir. 1999):

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"Determination of obviousness can not be based on the hindsight combination of components selectively culled from the prior art to feed the parameters of the patented invention. There must be a teaching or suggestion within the prior art within general knowledge of a person of ordinary skill in the field of the invention, to look to particular sources of the information, to select particular elements, and to combine them in the way they were combined by the inventor".

Definitely, there are no teachings or suggestion in any of the references to combine them to arrive at the new features of the present invention, which are provided by the applicant and combined in the inventive manner.

In re Fritch, 23 USPQ 2d, 1780, 1784 (Fed. Cir. 1992) it was stated that

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious ... "one can not use inside reconstruction to pick and choice among isolated disclosures in the prior art to depreciate the claimed invention"

Definitely, the combination of the references applied by the Examiner can not be considered as obvious.

It is further respectfully stated that the present invention can not be derived from the combination of the references, since any combination would not lead to the applicant's invention. Instead, the references have to be modified, in particular by including into them the new features of the present invention which were first proposed by the applicant and now defined in amended independent claims 54 and 61. Chumley would need to be modified significantly to operate with Young's supporting cradle 70 and Hahn's downwardly extending pivot bolt (60), which would change Chumley's and Young's intended purposes significantly.



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For that matter, it is known that in order to arrive at a claimed invention by modifying, the references cited art must themselves contain a suggestion for such modifications. This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in *re Randol and Redford* (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Applicant respectfully asserts, therefore, that it would not have been obvious to try to modify Chumley by Young, and Young and Chumley by Hahn to realize the invention as claimed, because as explained, there would be little likelihood that the invention as claimed could be realized by such a combination.

Moreover, applicant submits his amended Affidavit under 37 CFR 1.132, which now more closely ties his economic success to the inventive load adjustment facilitated by the MLSP and means for adjusting the MLSP as claimed. This evidence of economic success of the claimed towing device is believed to clearly establish the invention's non-obviousness, and applicant requests that the Examiner consider same in combination with the arguments asserted above.

In view of the above presented remarks and amendments, and in view of the amended Affidavit under 37 CFR 1.132, it is believed to be clear that independent claims 54 and 61, the broadest apparatus and method claims, should be considered as patentably distinguishing over the art and should be allowed.

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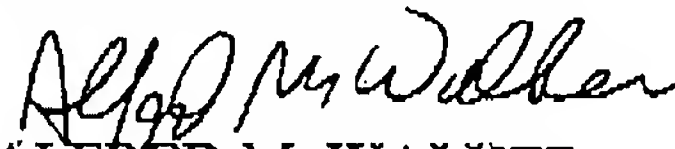
As for the dependent claims 56 and 58-60, these claims depend on the corresponding independent claims, they share their allowable features, and they should be allowed as well.

The Examiner is requested to call the undersigned if further changes are required to obtain allowance of the application.

A favorable action is solicited.

April 14, 2009

Respectfully submitted,

  
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IN THE UNITED STATES PATENT OFFICE

APPLICANT : Robert Stidd  
SERIAL NO. : 10/605,176  
FILED : September 12, 2003  
TITLE : SINGLE TOWING DEVICE  
EXAMINER : M. Scott Lowe  
GROUP ART UNIT : 3652  
ATTORNEY DOCKET NO.:270804 Stidd Towing

SECTION 132 DECLARATION OF SECONDARY CONSIDERATIONS BASED  
UPON COMMERCIAL SUCCESS OF THE CLAIMED SUBJECT MATTER

I, Robert Stidd, hereby declare:

I am the Applicant and Inventor herein, and I am familiar with the claimed subject matter of the above identified patent application.

I make this Section 132 Declaration in support of the fact that the commercial success of the claimed subject matter of the above identified patent application is secondary evidence of the non-obviousness of the invention as claimed. The products which comprise the claimed subject matter are licensed to Race City RV Products, LLC., of Mooresville, NC which sells the products.

The invention includes a device to tow at least two vehicles (claim 54) and method for towing two vehicles (claim 61). The inventive tandem tow device and method as claimed provide an adjustable car locator swivel plate that allows the adjustment of the weight distribution to "fine tune" the load. The tongue weight can be adjusted to comply with the RV hitch's requirements. Using the loading ramps supplied with the invention, an automobile and the golf cart can be ready for transport quickly and easily.

For example, claim 1 in pertinent part calls out a movable vehicle locator swivel plate mounted on an upper side of and adjacent the rear end of said base to the rear of said axis of rotation for supporting two wheels of a second vehicle being towed,

said movable locator swivel plate having a downwardly extending pivot bolt for pivoting around a vertical axis being a point of rotation for said vehicle being towed as said towing vehicle moves through a radius of a turn, and means for adjusting said movable locator swivel plate along a longitudinal axis of said base to adjust loads on said hitch comprising said downwardly extending pivot bolt from said swivel plate engaging a hole in a series of holes in said base arranged along said longitudinal axis of said base whereby said swivel plate is movable between said holes for adjusting a load on said hitch.

The subject matter of the above-identified patent application, e.g., the device to tow at least two different vehicles (or tandem tow trailers), began sales in the fourth quarter of the year 2003. From that time, the tandem tow trailers, as claimed in the above-identified patent application, went from sales of \$14,679 in 2003 to \$222,231 in 2004, to \$333,124 in 2005, to \$371,682 in 2006, \$511,456 in 2007 and \$543,125 in 2008, with total cumulative sales of \$1,996,297 since their introduction in 2003 (significantly more than a hundred-fold increase in a relatively short five year period).

**Commercial Sales Success Information:**

Sales 2003	5 Trailers	\$14,679
Sales 2004	62 Trailers	\$222,231
Sales 2005	79 Trailers	\$333,124
Sales 2006	79 Trailers	\$371,682
Sales 2007	104 Trailers	\$511,456
Sales 2008	101 Trailers	\$543,125

**Totals: 430 Trailers \$1,996,297 (Total Sales 2003-2008)**

As noted above, the sales of the tandem tow trailers have steadily increased from 5 trailers in 2003 to 101 trailers in 2008, for a total of 430 tandem tow trailers.

I understand from speaking with potential customers and customers who have purchased the tandem tow trailers that the pertinent claim limitations set forth above are

the basis for the desirability and commercial success of the tandem tow trailer device and method.

That is, based on first hand knowledge by customer feedback, it is the tandem tow trailer's ability to adjust and balance the load using the movable vehicle locator swivel plate mounted on an upper side of and adjacent the rear end of said base to the rear of said axis of rotation for supporting two wheels of a second vehicle being towed, with its downwardly extending pivot bolt for pivoting around a vertical axis being a point of rotation for said vehicle being towed as said towing vehicle moves through a radius of a turn, and means for adjusting said movable locator swivel plate along a longitudinal axis of said base to adjust loads on said hitch comprising said downwardly extending pivot bolt from said swivel plate engaging a hole in a series of holes in said base arranged along said longitudinal axis of said base whereby said swivel plate is movable between said holes for adjusting a load on said hitch that render it desirable, and commercially successful.

The above sales attest to the rapid commercial success of the dated subject matter, and invention as claimed.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: April 13 2009

  
Robert Stidd

Applicant

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